



A Publication of the
DEPARTMENT OF REGULATION AND LICENSING
FOR HOME INSPECTORS

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Overview of New Regulation

The new regulation of home inspectors was enacted by 1997 Wisconsin Act 81. This act was published on April 27, 1998. The actual effective date of the new regulation was November 1, 1998. The Secretary of the Department of Regulation and Licensing subsequently appointed an advisory committee to assist the Department in developing policies and procedures relating to this regulation. Wisconsin Act 81 requires that the advisory committee consist of 6 home inspectors and 3 public members. The Secretary of the Department, or a person designated by the Secretary, must serve as the nonvoting chairperson of the committee. Members of the committee may also assist the Department in screening complaints against registrants and in advising the Division of Enforcement concerning the investigation and prosecution of complaints against registrants.

Initially, the advisory committee had a lot of work to do. It met 6 times in 1998 and once in 1999. It conducted some of its business by correspondence in 1999. We anticipate that the committee will soon settle into a routine of 3 or 4 meetings per year.

HOME INSPECTOR ADVISORY COMMITTEE

Members of the Committee

Jerome G. Baumgardt (Elm Grove)
Larry Engen (Hazelhurst)
Robert Epps (De Forest)
Gina Gruba (Green Bay)
Mark Jankowski (Portage)
Norbert Lovata (Madison)
Rick Staff (Madison)
Mark Thomas (Milwaukee)
Vacancy (Public Member)

Administrative Staff:

Cletus J. Hansen, Division Administrator

Executive Staff:

Marlene A. Cummings, Secretary
Myra Shelton, Executive Assistant

Processing of Complaints

The new law gives the Department two alternatives for processing complaints against home inspectors. One procedure involves the creation of a registry. The other procedure involves a more lengthy investigation and possible prosecution process. Most complaints will be processed under the registry procedure; however, some more serious complaints will go the investigation route. The next two articles will provide an overview of the Department's Division of Enforcement and a summary of the two procedures.

Division of Enforcement

A critically important component of the role played by the Department of Regulation and Licensing (DORL) in overseeing professions subject to licensure and regulation is the Division of Enforcement (DOE), headed by Administrator Jack Temby.

The DOE is a large division comprised of attorneys, investigators, and support staff. Their primary mission is to conduct investigations of complaints received by the department concerning the conduct of persons holding professional credentials or licenses issued by the department. In the most recently-completed biennium (1997-99) more than 4,400 complaints were received and processed by the division. When appropriate, complaints are

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resolved through mediation. However, if it appears there has been a violation of the laws enforced by the boards or department, formal disciplinary action may be commenced against the credential holder involved.

There are four distinct phases of the case handling process. They are as follows:

Intake Stage: This is the first stage in the case handling process. Cases are screened by screening panels to determine if an investigation is warranted. Cases that do not warrant investigation are quickly closed. Cases that appear to have merit are identified for investigative action.

Investigation Stage: This is the next stage in the case handling process. Investigative staff gather necessary evidence and make contacts with witnesses as needed. The results of the investigation are discussed with a case advisor and a department attorney. Cases that do not warrant professional discipline are closed. Cases with violations proceed to the next stage for legal action.

Legal Action Stage: In this stage, department prosecuting attorneys, in conjunction with case advisors, review the results of the investigation and pursue disciplinary action when appropriate. Cases may be resolved by means of stipulated agreements, informal settlement conferences, or letters of concern.

Hearing Stage: This is the last stage in the case handling process. This is a formal legal process. The department attorney litigates the case before an administrative law judge. The law judge makes a proposed decision which is reviewed by the licensing board. If a violation is found, discipline may be imposed. Disciplinary alternatives include a reprimand, limitation, suspension, and revocation.

To file a complaint, you may contact the Division of Enforcement by calling (608) 266-7482 or (608) 266-3736, or write the Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, WI 53708-8935.

Registry of Complaints

In most instances, if a consumer files a complaint against a home inspector, the Department will send the home inspector the following letter:

Dear Home Inspector:

The Department of Regulation and Licensing has received the enclosed complaint, relating to your practice as a home inspector in the state of Wisconsin. This complaint will be processed in accordance with the following provisions in 1997 Wisconsin Act 81 which became effective on November 1, 1998:

- (4) In lieu of proceeding under sub. (1) or (2), the department may place, in a registry

information file, a copy of a complaint received by the department against a Wisconsin registered home inspector, the inspector's response to the complaint and a copy of any records of the department concerning the complaint. If the department establishes a registry information file under this subsection, the department shall use the following procedure:

(a) No later than 60 days after the date on which the department receives a complaint alleging that a home inspector has engaged in conduct that is grounds for discipline under sub. (2), the department shall provide the inspector with a copy of the complaint and place a copy of the complaint and a copy of any records of the department concerning the complaint in the registry information file.

(b) After receiving a copy of the complaint under par. (a), the home inspector who is the subject of the complaint, or his or her authorized representative, may place in the registry information file a statement of reasonable length describing the inspector's view of the correctness or relevance of any of the information contained in the complaint.

(c) The department shall make the complaint, the home inspector's response to the complaint, if any, and a copy of any records of the department concerning the complaint placed in a registry information file under this subsection available to the public.

(d) The department shall remove all complaints against and other information concerning a home inspector from the registry information file if, for a period of 2 years from the date of the most recent complaint filed in the registry information file, no further complaints have been filed against the inspector.

(5) The department may, as a condition of removing a limitation on a certificate issued under this subchapter or of reinstating a certificate that has been suspended or revoked under this subchapter, do any of the following:

(a) Require the home inspector to obtain insurance against loss, expense and liability resulting from errors and omissions or neglect in the performance of services as a home inspector.

(b) Require the home inspector to file with the department a bond that is furnished by a company authorized to do business in this state and is in an amount approved by the department.

Based on the above provisions, I am herewith requesting that you send to me at the address at the top of page one of this letter, within 14 days, a statement of

reasonable length describing your view of the correctness or relevance of any of the information contained in the complaint.

Thank you for your attention to this matter.

Complaint Statistics

Between December 28, 1998, and November 22, 1999, the Department received 16 complaints against home inspectors. One complaint, alleging sexual harassment, was sent to the Division of Enforcement.

Number of Registered Home Inspectors

As of November 22, 1999, there were 813 registered home inspectors.

New Fees in Biennial Budget Bill

The fee for an original credential for any type of license granted by the Department or any of the boards was raised from \$41 to \$44.

Examinations

The Department has entered into an agreement with the Examination Board of Professional Home Inspectors, Inc., (EBPHI) for administration of the Wisconsin home inspector examinations (eventually it will be one exam). EBPHI is an independent, not-for-profit entity, founded for the specific purpose of developing and administering the National Home Inspector Examination (NHIE). The NHIE was formerly administered by the American Society of Home Inspectors solely as a requirement for membership.

The Department will send all registered home inspectors an information brochure and application materials, so that home inspectors can register for one or other part of the exam (as required) early in the year 2000. Dates, times, locations and fee will be explained in the informational materials.

Continuing Education

Section RL 135.02 (2) of the Wisconsin Administrative Code says that a registered home inspector shall complete at least 20 hours of continuing education during each calendar year. We need to clarify three issues relating to this rule.

1. Since many parts of the new statutes and rules were being developed during part of 1999, anyone who was initially registered during 1998 or 1999 will be required to obtain a total of 40 hours at any time before renewing his or her registration in the fall of 2000.
2. A person who was initially registered after December 31, 1999, was not in a position to complete 20 hours of continuing education in

1999. Therefore, persons initially registered on or after January 1, 2000, must obtain only 20 hours of continuing education, in order to renewal in the fall of 2000.

3. Persons who receive an initial registration certificate during the last 2 months of the 2-year registration period (November and December, 2000) will receive a registration certificate that expires on December 31, 2002. They will not be required to obtain continuing education in 1999 or 2000.

What home inspector courses will satisfy the requirement? The administrative rules say: "a program relating to the general subject matter of home inspection." This includes courses offered by schools, professional associations, home inspection companies and governmental agencies.

In a recent mailing to all registered home inspectors we invited course providers to send us information about themselves and their courses, so we could publish such information in the Regulatory Digest. Our invitation resulted in little or no response. Therefore, we can only offer the following suggestions:

- Contact the business program administrator at your local vocation-technical college and discuss the need for home inspector courses.
- Contact the Milwaukee Area Technical College or the Madison Area Technical College concerning the availability of a the home inspector course that each of them has offered for several years.
- Attend update courses for certified weatherization inspectors, lead inspectors, radon inspectors or uniform dwelling code inspectors, if you are such an inspector.
- Contact the Wisconsin Realtors Association about their home inspector courses (608-241-2047). They offer courses designed for home inspectors.
- Contact the Wisconsin Home Inspectors Association, which has courses open to all inspectors. They have monthly training programs at 4 locations each month (Milwaukee, Madison, Fox Valley and Central Wisconsin). They will also have a big annual program in February. For information, call Julie at 414-786-7878.
- Contact the American Society of Home Inspectors at 800-743-2744. Contact the National Association of Home Inspectors at 800-448-3942 (ask for Michelle).

Department of Regulation and Licensing
Home Inspectors Section
P.O. Box 8935
Madison, WI 53708-8935

RETURN SERVICE REQUESTED

REGULATORY DIGEST

Bulk Rate
U.S. Postage
Paid
Madison, WI
Permit No. 1369

Telephone Directory

The Division of Business Licensure & Regulation has a menu telephone system which is designed to more efficiently direct the caller to the appropriate section. The telephone number for staff is:

(608) 266-5511

After dialing this number you are asked to press 1, 2, 3 or 4. For the following requests, please press extension numbers as noted:

Application Forms	Ext. 11
Complaints Against Licensees	Ext. 12
Whether A Person Is Registered	Ext. 442
Application Processing & Requirements	Ext. 43
Fax Number	(608) 267-3816

Visit the Department's Web Site

<http://badger.state.wi.us/agencies/drl/>
Send comments to dorl@drl.state.wi.us

Wisconsin Statutes and Code

Copies of the "Statutes and Administrative Code Relating to the Regulation of Home Inspectors" can be ordered from the Department.

Include your name, address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28. The latest edition is dated August 1999. New registrants receive a copy free of charge

Change of Name or Address?

Please photocopy the mailing label of this digest, make changes in name or address, and return it to the Department. Confirmation of changes are not automatically provided.

WIS. STATS. S. 440.11 ALLOWS FOR A \$50 PENALTY TO BE IMPOSED WHEN CHANGES ARE NOT REPORTED WITHIN 30 DAYS.

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